IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2397 OF 2004

1 M/s. Philips (India) Ltd. & Anr. .. Applicants

V/s

1 The State of Maharashtra & Anr. ..Respondents

Mr.P.D. Desai for applicants
Mr. B.H.Mehta,APP for the State.

Coram : V.M. Kanade, J.
Dated : 25/04/2005.

P.C. :-

1 The applicants are challenging the order of issuance of process by the Metropolitan Magistrate, 27th Court, Mulund, Mumbai in case No.170/S/2003 filed by the Inspector of Legal Metrology under section 39 and 63 of the Standard Weights and Measures Act 1976.

2 It is submitted by the learned counsel for the applicants that no averments are made in the complaint regarding the role of the applicants or the Director of M/s Philip (India)Ltd. It is further submitted that the learned Magistrate has failed to consider the reply given by the company in which it was pointed out that the name and address of the manufacturers, identity of the commodity, total number of required packeges were

exclusively mentioned

on the wholesale packeges. It was submitted that lamps which are manufactured by the applicants are packed in corrugated boxes to protect it from breakage during the transit. It is submitted that therefore action under section 29(1) was unwarranted. It is not possible to accept the submission made by the learned counsel for the applicants. The respondent has filed an affidavit in which it is stated that when the Inspector of Legal Metrology had visited the premises of the petitioner company, he found that the packeges which were kept and offered for sale did not contain the name and address of the manufacturer, identity of the commodity and net contents and, therefore, there is clear violation of provisions of the said Act. In my view it is not possible to accept the submission made by the learned counsel for the petitioner. The question whether in fact, there was violation of the provisions of the said Act or not can be decided only after the evidence is adduced by both the parties. Thus, there is no reason to interfere with the order of issuance of process. Criminal application is rejected.

(V.M. Kanade, J.)